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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,532	11/29/2001	SHAWN R. GETTEMY	PALM-3698	5478
7590	03/27/2009		EXAMINER	
WAGNER, MURABITO & HAO LLP Third Floor Two North Market Street San Jose, CA 95113				RAO, SHRINIVAS H
ART UNIT		PAPER NUMBER		
2814				
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		03/27/2009	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/997,532	GETTEMY, SHAWN R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	STEVEN H. RAO	2814	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 January 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 3-11, 14-22, 25-27 and 29-35 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 3-11, 14-22, 25-27 and 29-35 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.
2. Applicant's submission filed on 01/16/2009 has been entered and forwarded to the examiner on 01/23/2009.
3. Therefore Claims 6,17, 33 to 35 as amended by the amendment and claims 3-11,14-16,18-22,25-27 and 29-32 as previously recited are currently pending in the Application.
4. Claims 1-2,12 23 and 28 have been cancelled.
5. The following rejection is based on the assumption that claims 1and 2 are cancelled.
6. Applicants in the listing of claims show that claim 2 is cancelled, however in page 20 , line 1 under amendment to the Claims do not list 2 as cancelled.
7. It is presumed that listing of Claims is correct and Claim 2 is cancelled.
8. Further Claim 17 ( page 4 ) has been extensively amended, however the claim is parenthesis is identified as Previously presented whereas the correct designation should be Currently amended .
9. The above discrepancies are sufficient to render the amendment non-compliant, however in order to move the case forward , have been temporally set aside.

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10. Applicants' must confirm the correct status of claims in future.

***Information Disclosure Statement***

11. To date no IDS has been filed in this case.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-35, 3-11, 14 -22 25-27 and 29-35 are rejected under 35 U.S.C. 103(a) as being obvious over Mamiya et al. ( U.S. Patent No. 5,764,322, herein after Mamiya) in view of AAPR ( Applicants' applied Prior Art as seen at least from drawings figs. 1A-B and pages 1-4, etc.). Kubo et al. (U.S. Patent No. 6,456,279 herein after Kubo). ( for response to Applicants' arguments- see section below).

With respect to claims 33 to 35, Mamiya describes a display assembly comprising:

a backlight device ( Mamiya fig. 14, etc., col. 8 lines 20-25) a light reflecting film; (Mamiya fig. 14., etc. # 116) and a reflective-type display ( Cl.34- microstructure) comprising at least one pixel (Mamiya fig. 14, col. 7 lines 35-40, col. 10 line 35).

Mamiya does not specifically mention a light conducting spacer.

However AAPR figs. 1A-B and page 7 lines 4 to 12, etc. shows a light conducting spacer to maintain the distance between the top and bottom layers and yet are small enough to be indiscernible to a user, particularly when they are in a liquid.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to include AAPR's spacer in Mamiya's device. The motivation for the above inclusion is to maintain the distance between the top and bottom layers and yet are small enough to be indiscernible to a user, particularly when they are in a liquid. (AAPR page 7).

The remaining limitations are :

The Limitation " conducting light through said reflective-type display from said backlight device " and "wherein said light reflecting film reflects light conducted by said light

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conducting spacer back to said reflective –type display” and “wherein said light reflecting film reflects light conducted by said light conducting spacer back to said reflective –type display to uniformly distribute light across said reflective –type display “ and “ reflective type display concentrates light toward said light conducting spacer to increase a brightness of said reflective display” these limitations recite the manner in which the claimed apparatus is intended to be employed.

It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ 2d 1647 (1987).

wherein said reflective-type display is located between said backlight device and said light reflecting film. ( cl. 34- reflective microstructure) (AAPR figs. 1A, Mamiya figs.) and (Cl. 35) -a brightness enhancing film (BEF) located between said backlight device and said reflective-type display. ( Mamiya co. 9 lines 10-39) and wherein said light reflecting film reflects light conducted by said light conducting spacer back to said reflective –type display. ( see above- intended to be employed discussion).

Also in claim 34, “ wherein said light reflecting film reflects light conducted by said light conducting spacer back to said reflective –type display to uniformly distribute light across said reflective –type display.” ( see above- intended to be employed discussion).

Further in Claim 35, “ Wherein said reflecting film reflects light conducted by said light conducting spacer back to said reflective –type display “ and “ reflective type display concentrates light toward said light conducting spacer to increase a brightness of said reflective display” ( see above- intended to be employed discussion.).

After full consideration, these limitations cannot be given patentable weight.

With respect to claims 3-4,14-15 and 26 describe the display assembly of Claim 1, wherein said backlight device is an electro-luminescent (EL)light device, LED ( col. 10 lines 45-46).

With respect to claims 5 and 16 describe the display assembly of Claim 1, wherein said backlight device is a cold cathode fluorescent tube (CCFT).light device. ( col. 10 lines 45-46).

With respect to claims 6 and 17 describe the display assembly of Claim 1,

further comprising a brightness enhancing film (BEF) disposed between said backlight device and said bottom surface of said reflective display and for directing light toward said light guide. ( Col. 9 lines 10-39).

The recitation, “ wherein a microstructure on a bottom of said BEF directs light toward said light conducting spacer by reflecting light away from at least one portion of said

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light reflective- type display wherein conducting ion is devoid of said light conducting spacer” .

The Limitation, “wherein a microstructure on a bottom of said BEF directs light toward said light conducting spacer by reflecting light away from at least one portion of said light reflective- type display wherein said portion is devoid of said light conducting spacer” recite the manner in which the claimed apparatus is intended to be employed.

It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ 2d 1647 (1987).

After full consideration, these limitations cannot be given patentable weight

With respect to claims 7,8, 29, 18, 19,30 and 31 describes the display assembly of Claim 1., wherein said reflective display is an electronic ink display and an electronic paper display. The limitations the reflective display is used as a electronic ink display and electronic paper display, these limitations recite the manner in which the claimed apparatus is intended to be employed.

It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ 2d 1647 (1987).

After full consideration, these limitations cannot be given patentable weight

With respect to claim 10 Mamiya describes the display assembly of Claim 1, wherein said light guide comprises a plurality of said light guides which enclose an area of said reflective display. (Mamiya col. 7 lines 21-25, AApA figs. 1 a-b) .

With respect to claim 11 describes the display assembly of Claim 10, wherein said plurality of said light guides enclose a sub-pixel of said reflective display. (Mamiya Figure 14, col. 7 lines 35-40, col. 10 line 35).

With respect to claim 21 describes the display assembly of Claim 1, wherein said light guide comprises a plurality of said light guides which enclose an area of said reflective display. ( Mamiya col. 1 lines 50-55, AAPA figs. 1a-b) .

With respect to claim 22 describes the display assembly Claim 12, wherein said plurality of said light guides enclose a sub-pixel of said reflective display. ( Mamiya Figure 14, col. 7 lines 35-40).

With respect to claim 25 Mamiya describes the display assembly of Claim 23, wherein said backlight device is an electro-luminescent (EL) light device. ( Hirakata col .3 lines 1 7-20, etc).

With respect to claim 27 Mamiya describes the display assembly of Claim 23, wherein said backlight device is a cold cathode fluorescent tube (CCFT) light device. (col. 10 lines 45-46).

With respect to claim 28 describes the display assembly of Claim 23, further comprising a brightness enhancing film (BEF) disposed above said backlight device and below said reflective display for directing light toward said plurality of light guides. ( Col. 9 lines 10-39).

With respect to claim 32 describes the display assembly of Claim 23, wherein said plurality of light guides enclose a sub-pixel area of said reflective display. ( Mamiya Figure 14, col. 7 lines 35-40).

#### ***Response to Arguments***

13. Applicant's arguments filed 01/16/2009 have been fully considered but they are not persuasive for the following reasons :

14. In response to applicant's argument that allegedly AAPA fails to teach or suggest a light conducting spacer conducting light through a reflective-type display from a backlight device, it is readily apparent that a glass ball spacer ( i.e. light conducting spacer ) is also capable of conducting light through a reflective-type display from a backlight device.

15. Further , a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

16. Here in the recited function “a light conducting spacer conducting light through a reflective-type display from a backlight device” DOES NOT result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Therefore none of the Applied need to disclose/ suggest the limitations for which patentable weight cannot be given.

It is noted that Mamiya’s polarizing plate will not only allow light to pass through it as stated by applicants, but also allow light to be reflected.

Therefore Claim 33 is rejected.

Applicants’ similar argument with respect to claim limitations Claim 34- ( to uniformly distribute light across the reflective –type display) and Claim 35 ( concentrates light toward the light conducting spacer ) are not persuasive as these limitations are intended use limitations for which after full consideration patentable weight cannot be given.

It is noted that uniformly distribute light across the reflective –type display and concentrates light toward the light conducting spacer DO NOT result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

Further , Mamiya’s light reflecting film is capable of to uniformly distribute light across the reflective –type display and concentrates light toward the light conducting spacer.

Therefore none of Applicants' arguments are persuasive.

Applicants' arguments w.r.t claims 4,15 and 26 that Mamiya fails to show LED is not persuasive at least for the reason the rejection is based on combined teachings of Mamiya and AAPA, and at least AAPA teaches LED. If one reference taught all claim limitations the outstanding rejection would be a102 rejection not 103.

Applicants' arguments' that claims 7,8,18,19 and 29-30 it is noted that the present recitation "reflective-type display" is "electronic ink display" recites how the reflective type display is used namely as electronic display and "electronic paper display ( a type of electronic ink display) .

Applicants' arguments are confused reply w..r.t claims 10 and 21, the rejection states Maiya shows enclosed area and AAPA shows light conducting spacer and not what Applicants" allege.

Therefore all of Applicants' arguments are not persuasive and all pending claims 3-11,14-22,25-27 and 29-35 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN H. RAO whose telephone number is (571)272-1718. The examiner can normally be reached on 8.30-5.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on 571-272-1714. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven H Rao/  
Examiner, Art Unit 2814

/Howard Weiss/  
Primary Examiner, Art Unit 2814